

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

816Q0055

## HOUSE BILL NO. 1019

Introduced by: The Committee on Local Government at the request of the Office of the  
Secretary of State

1 FOR AN ACT ENTITLED, An Act to revise certain provisions and procedures regarding  
2 elections.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23-3-43.1 be amended to read as follows:

5 23-3-43.1. Any candidate for election to the office of county sheriff shall file with the county  
6 auditor by the ~~first~~ last Tuesday of ~~April~~ March of the election year a certification of  
7 qualification issued by the law enforcement officers standards commission that ~~such person~~ the  
8 candidate meets the qualifications provided in § 23-3-43. However, any ~~such~~ candidate  
9 appointed to fill a vacancy by a party central committee pursuant to § 12-6-56 ~~or~~ shall file with  
10 the county auditor a certification of qualification by the second Tuesday in August. Any  
11 candidate who files an independent nominating petition shall file with the county auditor a  
12 certification of qualification by the first Tuesday after the first Monday of June. A sheriff  
13 appointed to fill a vacancy by the county commission shall file with the county auditor a  
14 certification of qualification within thirty days of the appointment. Failure to file a certification  
15 shall prevent the candidate's name from being placed on the ballot.



Section 2. That § 12-5-3.11 be amended to read as follows:

12-5-3.11. ~~In the event~~ If a political party has no prescribed method of selection of slates of delegates and alternates to its national convention, the slates of delegates and alternates to the national convention shall be elected by the primary. Names of candidates for delegates and alternates to the national convention, in number equal to the entire number of ~~such~~ the delegates and alternates to be selected, shall be grouped in a slate under the respective designations upon a single nominating petition, ~~which will.~~ The nominating petition shall contain a statement indicating ~~their~~ the candidates for delegates collective preference choice for President of the United States, if any, or that ~~they~~ the candidates have no preference or are uncommitted. No name of any candidate for delegate or alternate ~~shall~~ may be filed in more than one slate, ~~and the slate first filed shall occupy the left hand column on the primary election ballot followed by other slates in their order of filing. No squares shall appear at the left of individual names, but a circle shall be placed at the head of each slate and a cross or check mark placed therein shall be a vote for the entire number of delegates and alternates named in the slate.~~

Section 3. That § 12-6-26 be amended to read as follows:

12-6-26. No person may vote a party ballot at any primary election unless the person is registered as a member of that political party in the precinct in which the person seeks to vote. Any political party in its constitution or bylaws ~~as filed pursuant to § 12-5-1.1~~ may allow for participation in the party's primary elections by any person who is registered to vote with no party affiliation. Any such change to the constitution or bylaws of a political party shall be filed pursuant to § 12-5-1.1 by January first of the year in the which the primary is conducted.

Section 4. That chapter 12-12 be amended by adding thereto a NEW SECTION to read as follows:

If a vacancy for an unexpired term is to be filled by an election pursuant to § 3-4-6 and the

1 vacancy occurs after the first notice of filing deadline is published pursuant to § 12-12-1, the  
2 county auditor shall give notice of the vacancy to be filled in each official newspaper at least  
3 once each week for two consecutive weeks. The first notice of vacancy shall be published in the  
4 week following the occurrence of the vacancy. The notice of vacancy shall include the deadline  
5 for filing partisan nominating petitions, if not yet passed, and the deadline for filing independent  
6 nominating petitions.

7 Section 5. That § 12-18-3 be amended to read as follows:

8 12-18-3. Except for sample ballots and materials and supplies necessary for the conduct of  
9 the election, no person may, in any polling place or within or on any building in which a polling  
10 place is located or within one hundred feet from any entrance leading into a polling place,  
11 maintain an office or public address system, or use any communication or photographic device  
12 in a manner which repeatedly distracts, interrupts, or intimidates any voter or election worker,  
13 or display campaign posters, signs, or other campaign materials or by any like means solicit any  
14 votes for or against any person or political party or position on a question submitted or which  
15 may be submitted. No person may engage in any practice which interferes with the voter's free  
16 access to the polls or disrupts the administration of the polling place, or conduct any petition  
17 signature gathering, on the day of an election, ~~any exit poll or public opinion poll with voters~~  
18 within one hundred feet of a polling place. A violation of this section is a Class 2 misdemeanor.

19 Section 6. That § 12-18-5 be amended to read as follows:

20 12-18-5. A member of the precinct election board belonging to a political party which is not  
21 the same as the political party of the member of the precinct election board who has the  
22 registration list shall keep a poll list in paper or electronic format which ~~shall contain~~ contains  
23 in numerical order the names of all persons voting at the election and the type of ballot voted.

24 Section 7. That § 9-7-2 be repealed.

1 ~~9-7-2. The members of the Board of Trustees shall qualify for office within ten days after~~  
2 ~~notice of their election by filing an oath or affirmation of office in the usual form provided by~~  
3 ~~law.~~

4 Section 8. That § 9-13-1 be amended to read as follows:

5 9-13-1. In each municipality an annual election for the election of officers shall be held on  
6 the second Tuesday of April of each year, at a place in each ward of the municipality as the  
7 governing body shall designate. If the governing body of the municipality chooses a different  
8 election day as provided in this chapter, the governing body shall establish such election day by  
9 January fourteenth of the election year. The polls at the election shall be kept open continuously  
10 from seven a.m. until seven p.m.

11 Section 9. That § 9-13-28 be amended to read as follows:

12 9-13-28. The finance officer, within two days after the result of the election is declared, shall  
13 notify each person elected to office of the person's election. If a person does not qualify by filing  
14 an oath or affirmation of office in the usual form provided by law within ten days after the first  
15 meeting of the month next succeeding the election, the office ~~shall become~~ becomes vacant.

16 Section 10. That § 9-20-11.2 be amended to read as follows:

17 9-20-11.2. If a municipality submits a question to the electors at the next general election  
18 pursuant to § 9-20-11, the municipality shall certify the ballot language to the county auditor by  
19 the ~~third~~ second Tuesday in August of the year of the general election. However, the county  
20 auditor may extend the certification deadline for the municipality, if the county auditor  
21 determines that the extension will not prevent absentee ballots from being available by the date  
22 to begin absentee voting.

23 Section 11. That § 13-7-6 be amended to read as follows:

24 13-7-6. No candidate for elective school board membership may be nominated unless such

1 person is a resident voter of the school district and unless a nominating petition has been filed  
2 on such person's behalf with the business manager of the school district. The nominating  
3 petition shall be filed no later than five p.m. on the Friday thirty-nine days before the date of the  
4 election. However, if the nominating petition is from a candidate for a vacancy on a new school  
5 board within a newly created school district entity pursuant to § 13-6-62, the nominating petition  
6 shall be filed no later than thirty days prior to the date of the election. The petition is considered  
7 filed if it is mailed by registered ~~or certified~~ mail by five p.m. on the Friday thirty-nine days  
8 before the election. A formal declaration of a candidate shall be signed by the candidate before  
9 the circulation of the petition. The petition shall be signed by not less than twenty voters of the  
10 school district or if the school district is divided into school board representation areas, the  
11 petition shall be signed by not less than twenty voters who reside within the school board  
12 representation area. No petition may be circulated until ten weeks prior to the election. There  
13 shall be added by either the signer or the circulator the signer's place of residence and date of  
14 signing. The petition shall be verified under oath by the person circulating it. The filing of the  
15 nominating petition shall constitute nomination and will entitle the candidate to have the  
16 candidate's name placed on the ballot for the term the candidate specifies on the petition only  
17 upon verification signed by the business manager that the nominating petition contains the  
18 minimum number of signatures and that the candidate is a resident voter.